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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,412	05/30/2000	Henry H. Jenkins	7947	8695

7390 03/08/2002
Woodling, Krost and Rust
9213 Chillicothe Road
Kirtland, OH 44094

EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/580,412

Applicant(s)

JENKINS, HENRY H.

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

This action is in response to applicant's amendment received on 12/27/01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brayton et al. in view of A. Dewes.

Brayton discloses (Fig. 2-4) the invention substantially as claimed including a bottom board 21b, cavity board 20, a metal plate 45, a top board 21a, a plurality of rule slots 23, a steel rule 12, a cutting edge is defined by a generally triangular shape configuration and a bottom portion. Brayton doesn't show each of the steel rule having and first and second end portions extending at approximately a 45° angle. However, Dewes teaches the use of a steel rule having first and second end portions extending at approximately a 45° angle for the purpose of cutting the extremities of the collar-blank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brayton's die by providing the steel rule having and first and second end portion extending at approximately a 45° angle as taught by Dewes in order to obtain an angle cut.

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4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brayton et al. in view of Johnson.

Brayton discloses the invention substantially as claimed except for a generally cylindrical ejection rubber. However, Johnson teaches the use of ejection rubber for the purpose of removing the material out of the die. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brayton's die by providing ejection rubbers as taught by Johnson in order to remove the material out of the die.

Regarding to the cylindrical shape, it would have been an obvious matter of design choice to modify the Johnson reference by having a cylindrical ejection rubber, since applicant has not disclosed that a cylindrical ejection rubber solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Johnson's ejection rubber.

5. Claims 7-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson.

Johnson discloses (Fig. 5-19) the invention including a metal plate (see Fig. 16), a top board 3, a plurality of rule slots 27, a steel rule/metal member 4, a cutting edge is defined by a generally triangular shape configuration, a bottom portion and first and second end portions extending at approximately a 45° angle (9-10), a first direction and a second direction. Johnson doesn't show a second adjacent steel rule having first and second end portions extending at approximately a 45° angle. It would have been

obvious to one of having ordinary skill in the art at the time the invention was made to modified Johnson's steel rules by providing a second adjacent steel rule having first and second end portions extending at approximately a 45° angle, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, and in order to create the desired shape of cut.

Response to Arguments

1. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that Brayton and Dewes do not show "steel rules having first and second end portions extending at approximately a 45 degree angle and on opposite of a longitudinal axis". The combination of Brayton and Dewes teaches the use of steel rules having first and second end portions extending at approximately a 45 degree angle and on opposite of a longitudinal axis (between point b-e). In response to applicant's argument that "steel rules in said rule slots being arranged alternately with said first end portion of a given rule located adjacent said second end portion of a next rule adjacent said given rule". The combination of Brayton and Dewes can be modified with steel rules in said rule slots being arranged alternately with said first end portion of a given rule located adjacent said second end portion of a next rule adjacent said given rule in order to create the desired shape of cut.

Regarding claims 2-3, Johnson's device solved the problem of removing the material cut by the cutting edge (col. 10, line 53-56).

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Regarding to claims 7-25, applicant argues that Johnson's device does not show "steel rules extending on a longitudinal axis and having first and second end portions, said first end portion extending at approximately a 45° angle to said longitudinal axis and on one side of said axis, said second end portion extending at approximately a 45° angle to said longitudinal axis and on another side of said axis". Johnson teaches steel rules extending on a longitudinal axis and having first and second end portions, said first end portion extending at approximately a 45° angle to said longitudinal axis and on one side of said axis, said second end portion extending at approximately a 45° angle to said longitudinal axis and on another side of said axis (Fig. 7, 9-10, the longitudinal axis is located in the middle section of the rule 4).

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on Monday thru Thursday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

ofs
March 6, 2002


KENNETH E. PETERSON
PRIMARY EXAMINER